

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 NORTH 5<sup>th</sup> STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF

Suburst Properties, Inc.  
Shawnee Mission, Kansas

Respondent

)  
)  
) Docket No. TSCA-7-2002-0132  
)  
)  
)

CONSENT AGREEMENT

This proceeding for the assessment of a civil penalty was initiated on May 13, 2002, pursuant to § 16(a) of the Toxic Substances Control Act (hereinafter "TSCA"), 15 U.S.C. § 2601 et seq, when Complainant issued a Complaint and Notice of Opportunity for Hearing to Respondent, charging violation of the Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale of Lease of Residential Property ("Disclosure Rule"), which was promulgated pursuant to Section 1018 of the Residential Lead-Based Hazard Reduction Act of 1992, 42 U.S.C. § 4851 et seq. The Complaint proposed a civil penalty of Thirty Thousand Two Hundred and Fifty Dollars (\$30,250.00) for these violations.

The parties subsequently entered negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order is the result of such negotiations.

CONSENT AGREEMENT

1. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint but neither admits nor denies the factual allegations as set forth in the Complaint.

2. Respondent certifies by the signing of this Consent Agreement and Final Order that Respondent is in compliance with the requirements of 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale of Lease of Residential Property ("Disclosure Rule").

3. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.

4. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty in the amount of Four Thousand Two Hundred and Thirty-five Dollars (\$4,235.00), to be paid within thirty (30) days of the effective date of the Final Order.

6. Respondent understands that his failure to timely pay any portion of the mitigated civil penalty stated in Paragraph 5 above, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury (currently two percent (2%) per annum for the period January 1, 2003 through December 31, 2003) on the unpaid balance until such civil penalty and/or stipulated penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

FINAL ORDER

Pursuant to the provisions of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2601 *et seq.*, and based upon the information set forth in the Consent Agreement accompanying this Final Order, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Four Thousand Two Hundred and Thirty-five Dollars (\$4,235.00) within thirty (30) days of the effective date of this Final Order.

Payment shall be by certified check made payable to the "United States Treasury" and remitted to:

EPA-Region VII  
c/o Mellon Bank  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251.

2. A copy of the check must simultaneously be sent to the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region VII  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

RESPONDENT:

Date

2/26/03

By:


  
Sunburst Properties, Inc.

Title:

Per


COMPLAINANT:  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

Date 3/10/03

By:   
Kent Johnson, Attorney  
Office of Regional Counsel  
EPA, Region VII

IT IS SO ORDERED. This Final Order shall become effective immediately.

Date March 17, 2003

  
~~Robert L. Patrick~~ Karina Borrromeo  
Regional Judicial Officer  
EPA, Region VII

IN THE MATTER OF Sunburst Properties, Inc.,  
Docket No. TSCA-07-2002-0132

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Kent Johnson  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by First Class Mail Return Receipt:

Roger Rector, Registered Agent  
Sunburst Properties, Inc.  
12710 South Pflumm, Suite 200  
Olathe, KS 66062

Dated:

3/17/3

Debby White For  
Kathy Robinson  
Regional Hearing Clerk

U.S. Postal Service	
<b>CERTIFIED MAIL RECEIPT</b>	
(Domestic Mail Only; No Insurance Coverage Provided)	
<b>OFFICIAL USE</b>	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Post	
Sent To Roger Rector, Registered Agent	
Docket No. TSCA-07-2002-0132	
Sunburst Properties, Inc.	
12710 South Pflumm, Suite 200	
Olathe, KS 66062	
PS Form 3800, April 2002	
See Reverse for Instructions	

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MAR 17 2003